REMARKS

Reconsideration of this application, as amended, is requested.

Claims 1-9 remain in the application. Claim 1 has been amended to clarify the storing of image signals in the first memory and transferring of the stored image signals to the second memory. This clarification in claim 1 has support in the original specification, including original paragraphs 0008-0009, 0023-0024 and 0027. Accordingly, the amendments to claim 1 do not constitute new matter. Furthermore, new claims 10 and 11 have been added. Support for new claim 10 is disclosed in at least original paragraphs 0014 and 0020 and FIG. 1. Support for new claim 11 is disclosed at least in original paragraphs 0012 and 0030-0032 and FIG. 4. Therefore, it is respectfully submitted no new matter has been added by these claim amendments.

Claims 1-9 were rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al. (US 2002/0149628 hereinafter referred to as "Smith"). Without more, the Examiner merely equates elements of the claims of the present application to paragraphs of Smith with no explanation of how the elements of the claims relate to the disclosure of Smith.

Smith is directed to a system for generating a graphical representation representing at least a portion of an observable three-dimensional space. Referring to FIG. 1, the system of Smith includes a microscope, a microscope focus controller, a platform controller, a micromanipulator controller and a separate computer. A user can select a location on the graphical representation to direct a moveable item to a three-dimensional location within the space corresponding to the location selected by the user.

Amended claim 1 is directed to an optical observation apparatus including, inter alia, "an optical system which produces an image of the object being observed, and a video device for recording the image and for producing an image signal representative of the image, characterised in that the video device includes a first memory for temporary storage of the image signal, a second memory in data communication with the first memory, and a control device in control communication with both memories for controlling the storage procedure and data transfer from the first to the second memory, wherein the control device is adapted for controlling the storage procedure for the first memory in such a way that the image signal is stored over a predetermined period of time and an oldest image signal is continuously overwritten by a fresh image signal, and that transfer of at least a portion of content of the first memory to the second memory takes place as a reaction to a trigger signal". With the apparatus of amended claim 1, it is possible to continuously record the object being observed without assistance from the user. Image data which have already been stored in the first memory over a predetermined period of time, for example the oldest recordings in the first memory, are respectively overwritten by fresh data, for example a new recording. If, for example during an operation, a situation which a surgeon or user conducting a procedure would like to record occurs, he can still secure the recording of the situation during the entire period of time in which it is stored in the first memory, by causing transfer of at least a portion of the content of the first memory into the second memory. If the images are in intermediate storage in the first memory, for example for five minutes, then the first image recorded of the situation is erased again five minutes after it was recorded. Therefore, the user of the optical observation apparatus still has five remaining minutes to trigger transfer into the second memory. In particular,

recording of a situation which occurs only briefly can still be secured in that way even if the situation is already past. (See paragraph 0009 of the present application.)

The Examiner equates the storing procedure of the first memory of claim 1 to paragraph 0179 and the triggering procedure of claim 1 to paragraph 0212 of Smith. Paragraph 0179 of Smith refers to field of view movement and paragraph 212 describes FIG. 12 which is a graphical presentation of an object. Smith does not describe or suggest an observation apparatus with a first and second memory where "the image signal is stored over a predetermined period of time and an oldest image signal is continuously overwritten by a fresh image signal, and that transfer of at least a portion of content of the first memory to the second memory takes place as a reaction to a trigger signal" whereby a user can store an image of a situation after it occurs. Therefore, it is respectfully submitted amended claim 1 is patentably distinct and not anticipated by Smith (US Patent Application Publication 2002/0149628).

It is respectfully submitted that dependent claims 2-9, depending directly or indirectly from amended claim 1, are patentable for at least the reasons stated above in regard to amended claim 1.

Similar to amended claim 1, new claim 10 is directed to an operation microscope including, inter alia, "an optical system which produces an image of the object being observed, and a video device for recording the image and for producing an image signal representative of the image, characterised in that the video device includes a first memory for temporary storage of the image signal, a second memory in data communication with the first memory, and a control device in control communication with both memories for controlling the storage procedure and data transfer from the first to the

second memory, wherein the control device is adapted for controlling the storage procedure for the first memory in such a way that the image signal is stored over a predetermined period of time and an oldest image signal is continuously overwritten by a fresh image signal, and that transfer of at least a portion of content of the first memory to the second memory takes place as a reaction to a trigger signal, wherein the optical system and video device are disposed in an optical, longitudinal axis". For at least the same reasons as described above in relation to amended claim 1, it is respectfully submitted that new claim 10, is patentably distinct over Smith and is believed to be in condition for allowance. Furthermore, Smith does disclose or suggest an optical observation apparatus "wherein the optical system and video device are disposed in an optical, longitudinal axis". Smith only discloses disparate system components and a separate computing device.

New claim 11 is directed to an optical observation apparatus including, inter alia, "a stereoscopic optical system which produces two stereoscopic partial images of the object being observed, the optical system for each stereoscopic partial image includes its own observation channel, wherein each observation channel includes a video device for recording the stereoscopic partial image and for producing an image signal representative of the stereoscopic partial image, characterised in that each video device includes a first memory for temporary storage of the image signal, a second memory in data communication with the first memory, and a control device in control communication with both memories for controlling the storage procedure and data transfer from the first to the second memory, wherein the control device is adapted for controlling the storage procedure for the first memory in such a way that the image signal is stored over a

predetermined period of time and an oldest image signal is continuously overwritten by a fresh image signal, and that transfer of at least a portion of content of the first memory to the second memory takes place as a reaction to a trigger signal". New claim 11 incorporates the elements of claim 1, 6 and 7. In rejecting original claims 6 and 7, the Examiner points to paragraph 0006 of Smith for disclosing stereoscopic images. This is the only mention of stereoscopic images in all of Smith. Nowhere in Smith does it disclose or suggest an apparatus having two observation channels one for each partial stereoscopic image. Furthermore, Smith does not disclose or suggest that each observation channel have first and second memories. Therefore, it is respectfully submitted that new claim 11 is patentably distinct and not anticipated by Smith.

In view of the preceding amendment and remarks, it is submitted that the claims remaining in the application are directed to patentable subject matter, and allowance is solicited. The Examiner is urged to contact applicant's attorney at the number below if the Examiner believes a telephone or personal interview would facilitate the prosecution of this application.

Respectfully submitted,

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